

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**AT&T'S MOTION TO COMPEL RESPONSE BY VERIZON
TO INFORMATION REQUESTS ATT-VZ 2-41 and 27-2(g), REGARDING VERIZON'S
GUIDELINES FOR PLANNING ITS INTEROFFICE FACILITIES**

Introduction.

AT&T Communications of New England, Inc. ("AT&T") moves for an order compelling Verizon New England, Inc. ("Verizon") to provide the documentation sought in discovery requests ATT-VZ 2-41 and ATT-VZ 27-2(g), which seek documents that will contain information used by Verizon in planning and engineering its interoffice ring network. As will be demonstrated below, AT&T has made multiple efforts to resolve this discovery dispute with Verizon. In response to AT&T's efforts, Verizon has in some cases provided information that has later proven to be false and, more recently, Verizon has refused to respond to AT&T's inquiries at all.

The requested information is vital to a full evaluation of Verizon's cost case presentation. As a result, the information sought is both "relevant" and "likely to lead to the discovery of

admissible evidence.”¹ In light of the fact that the Department recently ruled that this is the “appropriate standard under which to consider [a] Motion to Compel discovery responses,”² Verizon should be compelled to provide the requested information in this proceeding for meaningful review by the Department and all parties.

Factual Background.

AT&T propounded **ATT-VZ 2-41** on May 8, 2001. This request asked Verizon to:

Please provide a copy of all planning documents, engineering guidelines, manufacturers’ specifications and the like that Verizon uses in planning and engineering its interoffice ring network.

Verizon responded on May 29 by claiming that “Verizon MA does not use engineering guidelines for planning and engineering its interoffice fiber ring network.” *See* VZ Response to ATT-VZ 2-41. Verizon also refused to produce relevant manufacturers’ specifications that it has in its possession, claiming that “Manufacturers specifications can be obtained from the manufacturers themselves.” *Id.*

Because Verizon generally has guidelines or even detailed methods and procedures that it uses to manage its operations, it seemed unlikely that Verizon was being truthful when it responded that it had no engineering guidelines concerning its interoffice fiber ring network. AT&T therefore wrote to Bruce Beausejour, counsel for Verizon, on July 3, and said the following:

“It is difficult to believe that Verizon has no documents giving its engineers information regarding how to lay out interoffice facilities. Please provide a supplemental response that either confirms that no planning documents of any

¹ Order on Verizon’s Appeal of Hearing Officer’s August 8, 2001, Ruling on Motions to Compel, D.T.E. 01-20, August 31, 2001 (“*August 31, 2001, Order*”) p.12.

² *Id.*

kind regarding interoffice facilities exist, or that provides copies of the planning documents that do exist.”

See July 3, 2001, letter from Ken Salinger to Bruce Beausejour (attached hereto at Tab 1).

In response, on July 12 Verizon filed a supplemental answer to ATT-VZ 2-41, which read as follows:

“Verizon MA confirms that it has no engineering/planning documents or engineering guidelines used in planning and engineering its interoffice fiber ring network.”

Six days later, however, Verizon filed Rebuttal Testimony of Joseph Gansert (dated July 18, 2001) which among other things criticized the HAI 5.2a-MA model with respect to interoffice facilities. In an effort to understand the basis for Mr. Gansert’s rebuttal testimony, on July 30, 2001, AT&T served discovery request **ATT-VZ 27-2. Part (g)** of that request asked the following:

“In Information Request ATT-VZ 2-41, AT&T requested the following information:

“Please provide a copy of all planning documents, engineering guidelines, manufacturers’ specifications and the like that Verizon uses in planning and engineering its interoffice fiber ring network.

“Verizon responded [to ATT-VZ 2-41]:

“Verizon MA does not use engineering guidelines for planning and engineering its interoffice fiber ring network. Manufacturers specifications can be obtained from the manufacturers themselves.

“Because there are no engineering guidelines for the interoffice network, please provide the source of any information relied upon to answer ATT-VZ 27-2 (a)-(e) inasmuch as those answers pertain to the Verizon network. Provide each and every source of such information.”

Verizon filed its response to ATT-VZ 27-2 on August 15, 2001. At that time, almost three months after the documents regarding interoffice facilities that AT&T requested in

ATT-VZ 2-41 should have been provided by Verizon, AT&T learned that the prior assertions by Verizon that it had no such documents were false. Verizon finally conceded the following:

“In 1992-1994, **Mr. Gansert** was the Managing Director of Network Transition Planning for NYNEX. His organization provided recommendations for deploying new technologies such as SONET in all NYNEX states including Massachusetts. **In 1994-1996**, he was Managing Director Network and OSS Architecture Planning for NYNEX. One of this organization[']s **responsibilities** was **to provide all Engineering Applications Guidelines for the use of SONET technology throughout NYNEX telcos.**

“**Mr. Gansert’s organization** did not conduct detailed engineering on specific network projects but rather **supplied guidelines** and direction **for such projects.** **The organization produced a large volume of such documents relative to SONET deployment.** Most of these will be difficult or impossible to locate at this time. A search is being conducted of old document libraries. Any documents discovered that are responsive to this request will be provided in a supplemental response.”

See VZ Response to ATT-VZ 27-2(g) (emphasis added).

After receiving this surprising response – which directly contradicted Verizon’s multiple earlier statements that Verizon “does not use engineering guidelines for planning and engineering its interoffice fiber ring network.” and therefore did not have any such documents or guidelines – AT&T immediately sent another letter to Verizon, expressing its dismay that Verizon was just then starting to look for documents that had originally been requested on May 8 and whose existence Verizon had twice denied.³ *See* August 15, 2001, letter from Ken Salinger to Bruce Beausejour (attached hereto at Tab 2). In that letter, AT&T also asked Verizon to inform AT&T when AT&T could expect to receive these vital documents. Verizon has never even responded to AT&T’s August 15 letter. Furthermore, to this date, Verizon has failed to file

³ As AT&T’s letter to Verizon noted, Verizon should have been able to identify the fact that responsive documents existed, and begin looking for them, in May. Mr. Gansert was a witness for Verizon in the recent New York UNE proceedings (just as he was in Massachusetts in 1996), and Verizon should have known that he might be a witness on similar topics in this proceeding. Given Mr. Gansert’s role as a witness and his purported background, it is inexplicable that Verizon did not ask him whether the company has any guidelines regarding interoffice fiber rings.

the supplemental response to ATT-VZ 27-2 which it promised to file in its original response to ATT-VZ 27-2.

Argument.

The documentation that AT&T has been seeking from Verizon since May regarding the manner in which Verizon plans and engineers its interoffice facilities is likely to contain information relevant both to Verizon's own interoffice cost model and to Mr. Gansert's rebuttal testimony.

AT&T is therefore entitled to the documentation referred to in Verizon's response to ATT-VZ 27-2(g), as well as to any more recent documentation that updates or supercedes the guidelines regarding interoffice fiber rings prepared and distributed within NYNEX by Mr. Gansert's organization in the mid-1990s and thus would also be responsive to ATT-VZ 2-41. AT&T is also entitled to any more recent documentation that has otherwise been used to provide guidance within Verizon regarding the planning and engineering of such interoffice facilities. AT&T needs to review these documents as it prepares to respond to Mr. Gansert's rebuttal testimony. AT&T should have received the documents in late May or early June. Instead, AT&T was told for the first time on August 15 that these documents do exist and that Verizon was just starting to look for them. Verizon's behavior has been further compounded by its refusal to respond to AT&T's August 15 letter and its refusal to provide the supplemental response that it promised in its initial response to ATT-VZ 27-2.

Furthermore, Verizon's refusal to provide manufacturer's specifications on the grounds that they are "available from the manufacturers themselves," *see* VZ Response to ATT-VZ 2-41, is contrary to two recent decisions in this docket—the Hearing Officer's August 8, 2001, Ruling

on Verizon's Motion to Compel ("*Hearing Officer's Ruling*") and the *August 31, 2001, Order* at 19 (discussed in fn 1).

Conclusion.

Because Verizon has admitted that documents responsive to ATT-VZ 2-41 and 27-2(g) do exist, and because such documents are essential to a full evaluation of Verizon's cost case, Verizon should be ordered to immediately provide the documentation long sought by AT&T. Furthermore, Verizon should be compelled to provide the manufacturer's specifications which it refused to provide in its original response to ATT-VZ 2-41, as the Department has recently held that the fact that documents may be available from a third party does not provide any ground for a party refusing to produce those documents in discovery. Therefore, AT&T respectfully asks the Department to grant this motion to compel.

**AT&T COMMUNICATIONS OF NEW
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Respectfully submitted,

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